

# Criminal State and Illicit Economy: a Game Changer for the Twenty-First Century: Crime, Illicit Trades, Economy, and state

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## Introduction

Taking advantage of globalization, crime, and illicit trades grew to become, beyond *public security*<sup>1</sup>, a question of *global and national security*<sup>2</sup> influencing international relations, economy, and society as a whole. Moreover, the classic divide between state and organized crime, the former fighting the latter, is no longer the single rule of the game.

Nowadays, in various countries and areas within them, organized crime and state interests can be found hard to distinguish to the point that the state may no longer seek to eradicate or reduce the organized crime pressure but may aim to control trafficking rings for its economic, personal, and partners benefits.

Furthermore, the millions of employees of the illicit economy producing counterfeits, smuggling hundreds of thousands of migrants, harvesting coca leaves or scratching poppy fields, poaching elephant or tiger carcasses, and pursuing the laundering of the proceeds in the licit economy on the one side and the millions more buying contraband cigarettes, smoking cannabis, paying for sex from coerced women, or employing irregular migrants on the other, create a vast global market. Given its scale and profitability, this illicit economy became a suppletive and at times an alternative model of development, closely intertwined with the legal sphere.

Yet, such awareness tends to remain confined to a few academic spheres instead of being fully acknowledged within international relations, political economy, and geopolitics so as to be translated at policy making level.

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<sup>1</sup> To public, property, and business.

<sup>2</sup> To sovereignty, government, and economic and global stability.

<sup>3</sup> Geocriminology (neologism from the author) studies the rivalries of power within a given territory in its political, social, economic, geographic, and perceived dimensions (i.e., the emotional and spiritual dimension of a territory forging the Nation and by extension what is rightfully "mine" e.g., Los Angeles gang outbursts and Mexican cartels confrontation) through interactions between illicit flows, their actors, and the legal sphere. It also covers the use of illicit means by legal actors. These actions, inherently illegal but considered legitimate, are covered by the reason of state. Mickaël R. Roudaut, "Marchés criminels—un acteur global", PUF, coll. Questions judiciaires, May 2010, 304p, "Géopolitique de l'illicite", Diplomatie no. 50, May-June 2011, "Géopolitique de la crise, des monnaies et de la fraude", Diplomatie no. 55, March-April 2012, "Géopolitique de l'illicite : une nouvelle grammaire", in Géographie des conflits (Dir. Béatrice Giblin), La Documentation française, May 2012, "In Narco Veritas? Géocriminologie du Mexique et de sa région. Marchés criminels, économie et État", Sécurité Globale no. 21, autumn 2012, "Sécurité intérieure et crime organisé au XXIe siècle: un essai de typologie" in Sécurité intérieure—Les nouveaux défis (Dir. Frédéric Debove & Olivier Renaudie), June 2013, "La multiplication et la diversification des acteurs illicites" in Questions internationales no. 63, September-October 2013, "Kaboul-Paris: voyage d'un gramme d'héroïne—Pouvoir et puissance de l'économie du pavot", Géoéconomie no. 68, January 2014.

That is why the traditional notions of organized crime, corruption, and penetration of public bodies no longer suffice to fully embrace and understand the modern relations between crime, illicit trades, economy, and state. Geocriminology<sup>3</sup>, the geopolitics of illicit economy, aims to expose this reality and its impacts.

## Crime is Shaping the World

Since the end of the Cold War, an unprecedented openness in trade, travel, communication, and finance has created an equally unprecedented era of economic growth and technological innovation, for the benefit of both citizens and consumers. Yet, as global governance struggles to keep pace with this destruction of barriers, massive criminal opportunities have emerged that exploit the open market economy.

Indeed, transnational organized crime changed in five defining ways:

1. From a mono-activity centered on drug trafficking, it expanded its reach investing in various illicit trades (counterfeiting, cigarettes, or migrants) and smuggling of all kinds once the routes and logistics are in place and in white-collar crimes.

2. From a centralized and vertical model, criminal groups evolved into amorphous, loose, adaptable, and flat transnational networks. Should a cell or some members be identified and arrested, the overall network would reconfigure itself almost naturally.

3. Criminal groups, turned illicit entrepreneurs, refined their *modi operandi* from expertise in passing borders to penetration of the licit economy through gained stakes and influence over strategic markets<sup>4</sup> (natural resources, energy, waste, and financial sector) while taking advantage of new technologies to access information, conceal their identity, and reduce detection risk.

4. The long-time barrier between organized crime and terrorism fell. Nowadays, a blend of insurgency, crime, and terrorism is at play whether in Sahel, the Af-Pak border, or in the longstanding example of the Andean forests (FARC<sup>5</sup>, ELN<sup>6</sup>, and *Sendero luminoso*<sup>7</sup>). Many terrorist groups, no longer or less state sponsored while in need of sustainable and discreet source of income, turned to illicit trades (notably counterfeiting, cigarette, and drugs). Hezbollah<sup>8</sup>, Abu Sayyaf Group, Al Qaeda's Affiliates such as Al-Qaeda in Islamic Maghreb or

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<sup>4</sup> See *Infra*.

<sup>5</sup> *Fuerzas Armadas Revolucionarias de Colombia/Revolutionary Armed Forces of Colombia*.

<sup>6</sup> *Ejército de Liberación Nacional/National Liberation Army*.

<sup>7</sup> *Shining Path*.

<sup>8</sup> In March 2006, the U.S. Federal Bureau of Investigation (FBI) busted a global network of counterfeit medicine fuelling Hezbollah with branches stretching from Brazil to China through Canada and Lebanon. More recently, for the U.S. Treasury Department, the "*Lebanese Canadian Bank—through management complicity, failure of internal controls, and lack of application of prudent banking standards—has been used extensively by persons associated with an international drug trafficking and money laundering network to move hundreds of millions of dollars monthly in cash proceeds...—as much as \$200 million per month—... from illicit drug sales into the formal financial system*". "According to U.S. Government information, Hizballah derived financial support from the criminal activities of Joumaa's network. LCB managers are also linked to Hizballah officials outside of Lebanon". Press release, February 10, 2011.

Haqqani Network, PKK<sup>9</sup>, Hamas, Islamic Jihad, terrorist movements in Northern Ireland, Kosovo, or Chechen separatists to name a few, have been or are considered engaged in organized crime-type activities<sup>10</sup>. This crime-terror nexus does not limit itself to terrorism turning to organized crime but also concerns the adoption of terror tactics by criminals. The filming of executions, amputations, decapitations, and hangings by Mexican criminal groups corresponds to the well-known strategy of tension aiming to attract Mexico into the cycle of repression-vengeance, with the prospects of police blunders (extra-judicial killings), that would undermine the legitimacy of the state<sup>11</sup>. Violence is therefore political. The D-Company, a criminal organization first invested in smuggling activities (1970s), evolved into a fully fledged organized crime group also engaged in insurgency-terrorism through "*supporting efforts to smuggle weapons to militant and terrorist groups*". "*By the 1990s, it began to conduct and participate in terrorist attacks, including the March 12, 1993, Bombay bombing*"<sup>12</sup>.

5. In various countries and regions within them, crime and state seem to have, at least partially, merged, giving rise to a new type of organized crime entity, the criminal state.

<sup>9</sup> *Partiya Karkerên Kurdistan/Kurdistan Workers' Party*.

<sup>10</sup> European Parliament, *Europe's Crime-terror Nexus: Links between Terrorist and Organised Crime Groups in the European Union*, 2012, 65 and CRS, *Terrorism and Transnational Crime: Foreign Policy Issues for Congress*, October 19, 2012, 40.

<sup>11</sup> Mickaël R. Roudaut, In *Narco Veritas?*, Op. cit.

<sup>12</sup> CRS, *Terrorism and Transnational Crime*, Op. cit.

<sup>13</sup> According to the UNODC (United Nations Office on Drugs and Crime), criminals, especially drug traffickers, may have laundered around US\$1.6 trillion, or 2.7% of global GDP, in 2009. See *Infra*.

<sup>14</sup> EMCDDA (European Monitoring Centre for Drugs and Drug Addiction), *European Drug Report 2013*, May 2013, spec. p. 42.

<sup>15</sup> For a case study, see Mickaël R. Roudaut, In *Narco Veritas?* Op. cit.

Every year, hundreds of billions of dollars are produced by illicit trades and are essentially laundered in the licit economy<sup>13</sup>, dozens of conflicts are fuelled by the smuggling of small arms and light weapons. Digital piracy (partially organized crime related), in less than a decade, transformed the movie and music industries and on average, 10,000 to 20,000 opioid users die each year from overdose, drug-related infectious diseases, violence, and other causes in the EU, Norway, and Turkey combined<sup>14</sup>. This influence on society, by all accounts, is found more lasting than any terrorist attacks.

Of course, criminal groups rip the benefits from these illicit trades to finance necessary workforce and protection from lawful authorities (corruption), to the point of competing with states in both "monopol[ies] of the legitimate violence" (Weber)<sup>15</sup> and taxation (through extortion).

## Evolution of Transnational Organized Crime and National Security Implications

This contributes to the burgeoning of so-called "failed states", or more eloquently said, sovereigns without power, along major illicit trade routes. The global and local impacts of the illicit economy, from the Andean forest to French suburbs and North America through West Africa and

## Evolution of Transnational Organized Crime and National Security Implications

Nature of Transnational Organized Crime	
1990s and Earlier	Current Patterns
Centralized hierarchical structures	Loose, amorphous, highly adaptable networks
Limited use of information technology	Increasing role of cyber capabilities in illicit activities
Illicit activities dominant	Legitimate business mixed with illicit activity
Clear separation of drug trafficking and other organized criminal activities	Non-drug-producing groups now trafficking
Cash-based local enterprises	Global investments and use of financial infrastructures

National Security Implications	
1990s and Earlier	Current Patterns
Domestic and regional scope	Transnational and global scope
Influenced some states' behavior	Co-opting, undermining some states or instruments of state power
Isolated links to terrorists	Offering services to foreign terrorist organizations
Targeting and enforcement easier than today	Adaptability outpacing targeting and enforcement

**Source:** U.S. Office of the Director of National Intelligence, *The threat to U.S. national security posed by transnational organized crime*, 2011

Central America, leave no country immune.

Indeed, this pervasiveness concerns developed countries as well. After all, among the 10 generally acknowledged mafia-type organizations, seven find their origins in G8 countries<sup>16</sup>.

Beyond, the intertwinement of state and crime concerns countries stranded on corruption reefs, hostages of the narco-economy or in the midst of political turmoil, or all of the above united in a perfect storm (Afghanistan and Guinea-Bissau)<sup>17</sup>.

*"It is impossible to understand all the workings that govern prices, intermediaries or the structure of supply networks of Russian gas that arrives in Europe (transiting notably by Ukraine) without taking into account the role of organized crime"*<sup>18</sup>.

As an illustration of this quantum leap from public security to global and national security concerns, an alleged criminal, present on the FBI 10 most wanted fugitives list for being suspected of having defrauded investors of more than 150 million dollars from 1993 to 1998 is also and more importantly reputed to be involved in the Eastern European gas market.

According to the FBI and the Department of Justice, he *"uses his ill-gotten gains to influence governments and their economies"*<sup>19</sup>.

In a meeting with the U.S. Ambassador in Kiev, reported in a 2008 diplomatic cable released by WikiLeaks, the nominal owner of the company distributing gas to the EU allegedly *"acknowledged ties to [the] Russian organized crime figure [identified hereabove], stating he needed [his] approval to get into business in the first place [...]. He noted that it was impossible to approach a government official for any reason without also meeting with an organized crime member at the same time. [He] acknowledged that he needed, and received, permission from [this Russian organized crime figure] when he established various businesses, but he denied any close relationship to him. If he needed a permit from the government, for example, he would invariably need permission from the appropriate 'businessman' who worked with the government official who issued the particular permit. He maintained that the era of the 'law of the street' had passed and businesses could now be run legitimately in Ukraine"*<sup>20</sup>.

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<sup>16</sup> Cosa Nostra, Camorra, 'Ndrangheta, Sacra Corona Unita, and Stidda in Italy, U.S. Cosa Nostra, and Yakuza in Japan. The three remaining being the Triads in China, the Turkish maffya and the Albanian-speaking mafia while a scholar debate takes place concerning vory v zakone (a part of Russian organized crime) regarding its mafia status. A mafia can be defined as a secret society or an institutionalized association anchored in a territory while having an international and polycriminal activity. Readily compartmentalized and hierarchical even though a looser network of cells can also be used, a genuine mafia is driven by a set of rites (including initiation), rules (omerta ...), and beliefs. Its recruitment is usually based on family and clan. Should all these criteria be met, only the test of time can confer the mafia qualification, hence the debate over vory v zakone. For an example of Mafia code of honor see the Triads 36 commitments oath, Thierry Cretin, *Mafia (s)* (Chronique editions, 2009), 124–5.

<sup>17</sup> M. Naím, "La mafia au cœur de l'État", Slate, May 10, 2012.

<sup>18</sup> Unofficial translation, Idem.

<sup>19</sup> FBI, "Global Con Artist" Attorney General Michael B. Mukasey, "Attorney General Michael B. Mukasey Delivers Remarks at the CSIS Forum on Combating International Organized Crime", April 23, 2008, *Political/Congressional Transcript Wire in CRS, Organized Crime: An Evolving Challenge for U.S. Law Enforcement*, January 6, 2012.

<sup>20</sup> Cable #002414, December 10, 2008, <http://www.guardian.co.uk/world/us-embassy-cables-documents/182121> and cable #002294, November 21, 2008 <http://www.guardian.co.uk/world/us-embassy-cables-documents/179510>

Perhaps logically, the 2011 U.S. Strategy to combat transnational organized crime (TOC) considers TOC, a novelty, as a "national security threat" while urging other states to undertake a similar step<sup>21</sup>.

The U.S. President goes on to declare, "*Criminal networks are not only expanding their operations, but they are also diversifying their activities, resulting in a convergence of transnational threats that has evolved to become more complex, volatile, and destabilizing. These networks also threaten U.S. interests by forging alliances with corrupt elements of national governments and using the power and influence of those elements to further their criminal activities. In some cases, national governments exploit these relationships to further their interests to the detriment of the United States*"<sup>22</sup>.

This last sentence, a rare instance in official publications, underlines the following; governments can, for reason of state or less legitimate motives, protect, take advantage of, or control and develop criminal activities. This further reveals the geopolitical nature of crime and its systemic impact. It notably justifies the shift from public to global and national security concerns.

However, the traditional legal and operational toolbox made of treaties, international, regional, and bilateral cooperation and dedicated organizations appears ill-adapted to this new type of criminal player proven as flexible and agile as organized crime while enjoying the legal privileges and immunities of states<sup>23</sup>.

## **The Inbreeding of Organized Crime and State: From Reason of State to Criminal State**

**T**he defining trait of the twenty-first century, as mentioned in Obama's statement, organized crime can be overtaken by states, not as to be destroyed, but as to be controlled in view to reap the benefit of its illicit deeds.

As any living creature, a state is driven by one paramount instinct; survive and thrive. History shows that no action will be spared to ensure this very survival, including, of course, through actions that would be deemed illegal if not covered by the reason of state. If history has found legitimacy in some of them, nowadays, illegal state actions involving organized crime no longer seem to be directly led by this survival imperium but rather more economic and prosaic personal wealth. A symbiotic relation between state and crime is thus developed<sup>24</sup>.

### ***Bulgaria***

Another quantum leap example from public security to global and national security concerns can be found in a now aged 2005 U.S. diplomatic cable released by WikiLeaks. "*TIM [described as a major organized crime group] controls some of the largest quarries of inert materials in Bulgaria, and through its trading company [...] it also has a significant share of the production and trade in fertilizers, petroleum products, and chemicals*"<sup>25</sup>.

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<sup>21</sup> Following on the 2010 National Intelligence Estimate on international organized crime which first in the United States made the shift from public security threat to national security threat.

<sup>22</sup> White House, *U.S. Strategy to Combat Transnational Organized Crime*, June 2011, iii.

<sup>23</sup> M. Naím, *opus citum*.

<sup>24</sup> Mickaël R. Roudaut, *Sécurité intérieure et crime organisé au XXIe siècle*, Op. cit.

<sup>25</sup> Cable #001207, July 7, 2005, <http://wikileaks.ch/cable/2005/07/05SOFIA1207.html>

For the author of the cable "Organized crime has a corrupting influence on all Bulgarian institutions, including the government, parliament and judiciary. In an attempt to maintain their influence regardless of who is in power, OC [Organized Crime] figures donate to all the major political parties. As these figures have expanded into legitimate businesses, they have attempted—with some success—to buy their way into the corridors of power. [...] Below the level of the national government and the leadership of the major political parties, OC "owns" a number of municipalities and individual members of parliament. This direct participation in politics—as opposed to bribery—is a relatively new development for Bulgarian OC. At the municipal level, a by-election earlier this year in the town of [...] resulted in the complete takeover of the municipal government by figures who have made little attempt to conceal their links to powerful smuggling interests. Similarly in the regional center of [...], OC figures control the municipal council and the mayor's office. Nearly identical scenarios have played out in half a dozen smaller towns and villages across Bulgaria"<sup>26</sup>.

## Italy

Crime and politics in Italy have been extensively reported and studied. The aim is not to remind us of well-known corruption and influence cases but whether *pacta sceleris* reached a level of national security concern.

A key point, notably developed by Umberto Santino, states that Italian mafias are not always against the state since "they are 'in' and 'with' the state as well"<sup>27</sup> through the "mafia bourgeoisie". "Criminal groups, a few thousand members in total, interact with a much larger social group within which decision-making power is exercised by illegal actors [...] and by legal actors, professionals, entrepreneurs, public servants, elected politicians and officials in charge of institutions, [forming] a mafia bourgeoisie"<sup>28</sup>.

Camorra (6,700), 'Ndrangheta (6,000), Cosa Nostra (5,200), Sacra Corona Unita (1,800), and Stidda (unknown), represent roughly "only" 20,000 persons. Their impact cannot be understood without this necessary interaction with the "mafia bourgeoisie"<sup>29</sup>.

This interaction was illustrated again in a recent police operation in Calabria, the birthplace of the 'Ndrangheta. Arrest warrants were issued against 65 people in Lamezia Terme, in the area of Catanzaro; among them, "entrepreneurs, politicians and lawyers as well as doctors and staff of the prison administration"<sup>30</sup>.

Criminal powers anchored in a territory (mafias and cartels) possess an electoral power (votes). In 2004, 190 "families" were identified (approximately 5,200 members) in Sicily, among which 89 were in the province of Palermo (about 3,200 members)<sup>31</sup>. On average, each "man of honor" controlling 40 to 50 votes, the electoral base of the Cosa Nostra in the Palermo prov-

<sup>26</sup> Idem.

<sup>27</sup> Arles Arloff, "Italie, un pouvoir corrompu," *Futuribles* no. 381, January 2012.

<sup>28</sup> Umberto Santino, *La mafia interpretata Dilemmi, Stereotipi, paradigmi* (Rubbettino editions, 1995), 250, p. 145 in Arles Arloff and André-Yves Portnoff, "La mafia italiana : persistances et résistance", *Futuribles* no. 326, January 2007, 32.

<sup>29</sup> T. Cretin, *Mafia(s)*, Op. cit., p. 21, 25, 31, 36, and 38–39.

<sup>30</sup> *Le Monde*, "Italie: opérations anti-mafia d'ampleur menées à Rome et en Calabre", July 26, 2013.

<sup>31</sup> T. Cretin, *Mafia(s)*, Op. cit., 21.

ince would range from 128,000 to 160,000 votes<sup>32</sup>, enough to mediate the political debate, or even hold its key.

For the anti-mafia deputy prosecutor of Calabria, "*the 'Ndrangheta [...] controls 20% of votes, it is sufficient to switch the majorities in our small towns*"<sup>33</sup>.

Criminal powers are thus both fought and courted by law abiding personnel and corruptible individuals. Unsurprisingly, from July 1991 to February 2008, 172 municipal councils were dissolved for operating under mafia influence<sup>34</sup>.

The trial for "*participation in a criminal association*" of a key figure, from the years 1955 to 1992, seven times President of the Council (Prime Minister), Andreotti, leave limited room for speculation on the national security concern reached by organized crime penetration in Italy. The supreme court in its October 2004 ruling declared that "*during the 1970s and through to the spring of 1980, Andreotti enjoyed friendly and direct relations with leading members of Cosa Nostra and had knowingly and deliberately cultivated a stable relationship with Mafiosi. [...] The judgment found that Andreotti had been involved in criminal association until spring of 1980, but the crime was time-barred and insufficient proof brought him acquittal for the time after that*"<sup>35</sup>. In other words, Andreotti was found guilty of criminal association but the expi-

ry of the statute of limitation prevented any sentence. The ruling was translated by the Italian press in a simple acquittal.

For the U.S. Department of State, "*The proceeds of domestic organized crime groups (especially the Camorra, the 'Ndrangheta, and the Mafia) operating across numerous economic sectors in Italy and abroad compose the main source of laundered funds. Numerous reports by Italian non-governmental organizations identify domestic organized crime as Italy's largest enterprise*"<sup>36</sup>.

## Japan

The Japanese situation can be difficult to apprehend for western eyes. To the opposite of criminal wisdom, *yakuza* (or *bo-ryokudan*) possess clearly identified offices, give away business cards, may grant interviews, and are the subject of fan magazines. They can compete with traditional companies in the hiring of graduates straight out of business schools. The relation between state, power, and *yakuza* is thus well documented<sup>37</sup>.

Comprising roughly 79,000 persons divided among 22 groups (in 2012), they are considered to have played a key role in the decade long recession that hit Japan at the beginning of the 1990s, to the point that the period is often referred to as the "*yakuza recession*"<sup>38</sup>.

<sup>32</sup> According to the *pentito* Antonino Calderone (1987) and Xavier Raufer (<http://www.xavier-raufer.com>).

<sup>33</sup> *Le Monde*, November 7, 2005.

<sup>34</sup> Italian Parliament, *Relazione annuale della Commissione parlamentare di inchiesta sul fenomeno della criminalità organizzata mafiosa o similare 'ndrangheta'*, 2008, 116.

<sup>35</sup> David Lane, *Into the heart of the Mafia*, 2010 (Profile books LTD), 4.

<sup>36</sup> Department of State, *International Narcotics Control Strategy Report*, Vol. II, March 2013, 141.

<sup>37</sup> David Kapan and Alec Dubro, *Yakuza* (du Picquier editions, 2002), Thierry Cretin, *Mafia(s)*, Op. cit., 130–141, *Foreign Policy*, "The Yakuza lobby", December 13, 2012.

<sup>38</sup> *Far Eastern Economic Review*, The Yakuza Recession, January 17, 2002: "*Neither Miyawaki nor any other credible commentator suggests that deflation, policy blunders, political inertia and a whole range of other factors haven't contributed to Japan's decade-long stagnation. All the same, Miyawaki, a Tokyo University Law School graduate, former spokesman for Prime Minister Yasuhiro Nakasone and former head of the National Police*



			End of 2009	Net change from end of 2008	Share
Three major groups	The sixth Yamaguchi-gumi	Members	19,000	-1,200	45.0% (members-only share 49.2%)
		Associates	17,400	-400	
		Total	36,400	-1,600	
	Sumiyoshi-kai	Members	6,100	0	15.8% (members-only share 15.8%)
		Associates	6,700	+100	
		Total	12,800	+100	
	Inagawa-kai	Members	4,700	-100	11.6% (members-only share 12.2%)
		Associates	4,700	+200	
		Total	9,400	+100	
Combined total of the three major groups		Members	29,800	-1,300	72.4% (members-only share 77.2%)
		Associates	28,800	-100	
		Total	58,600	-1,400	
Other		Members	8,800	-500	27.6% (members-only share 22.8 %)
		Associates	13,500	+200	
		Total	22,300	-300	
All Boryokudan groups combined		Members	38,600	-1,800	100.0%
		Associates	42,300	+100	
		Total	80,900	-1,700	

**Source:** Japan National Police Academy, Police Policy Research Center, *Crime in Japan* in 2009

As illustration of the global and national security concern *yakuza* represent, a 2007 Japan police report warned that "*the yakuza made such incursions into the financial market that they threaten the very basis of the Japanese economy*"<sup>39</sup>. More recently, they "*have been tied to a wide range of businesses, including the nuclear industry*"<sup>40</sup> and "*[...] a Japanese camera manufacturer mired in a major accounting scandal*"<sup>41</sup>.

As another illustration of the global reach of the *yakuza*, following the Executive Order, issued in 2011 by President Obama to target and disrupt four major transnational criminal organizations (Brother's circle, Eurasian based—Camorra, Italian based—Yakuza and Zetas, Mexican based)<sup>42</sup>, the U.S. Treasury announced in February 2012 the freezing of the American-based assets of the *Yamaguchi-gumi*, the larger *yakuza* group, and two of its leaders. It will also bar any transactions between Americans and members of this crime syndicate.

Shaping their image, a longstanding feature of mafia-type organizations, the *yakuza* "*were some of the first responders after the earthquake [that provoked the tsunami hitting the Fukushima power plant], providing food and supplies to the devastated area and patrolling the streets to make sure no looting occurred*"<sup>43</sup>.

## Kosovo

In 2011, the Parliamentary Assembly of the Council of Europe adopted a widely commented report investigating organ trafficking in Kosovo. It held the view that "*[...] in confidential reports spanning more than a decade, agencies dedicated to combating drug smuggling in at least five countries have named Hashim Thaqi [Prime Minister of Kosovo] and other members of his 'Drenica Group' as having exerted violent control over the trade in heroin and other narcotics*"<sup>44</sup>.

*"In the course of the last ten years, intelligence services from several Western European countries, law enforcement agencies, including the Federal Bureau of Investigation (FBI) in the United States, and analysts of several nationalities working within NATO structures have prepared authoritative, well-sourced, corroborated reports on the unlawful activities of this 'Drenica Group'*"<sup>45</sup>.

*"At a minimum, there is solid documentary evidence to demonstrate the involvement of this group, and its financial sponsors, in money laundering, smuggling of drugs and cigarettes, human trafficking, prostitution, and the violent monopolisation of Kosovo's largest economic sectors including vehicle fuel and construction"*<sup>46</sup>.

<sup>38</sup> (cont) Agency's organized crime division, estimates that up to 50% of the bad debts held by Japanese banks could be impossible to recover because they involve organized crime and corrupt politicians", thus slowing down the decade long recovery process, hence the "yakuza recession" moniker.

<sup>39</sup> Foreign policy, "The Yakuza lobby", Op. cit.

<sup>40</sup> The Telegraph, "How the Yakuza went nuclear", February 21, 2012.

<sup>41</sup> New York Times, "U.S. Treasury Dept. Penalizes Japan's Largest Organized-Crime Group", February 24, 2012.

<sup>42</sup> Executive order #13581, July 24, 2011.

<sup>43</sup> The Telegraph, Op. cit.

<sup>44</sup> Council of Europe, Parliamentary Assembly, Report #12462, *Inhuman treatment of people and illicit trafficking in human organs in Kosovo*, January 2011. Paragraph 66 and footnote 28: The agencies dedicated to combatting drug smuggling are "*the German (BND), Italian (Sismi), British (MI6) and Greek (EYP) intelligence services*".

<sup>45</sup> Ibidem, footnote 31.

## Myanmar

Viewed from Bangkok press, "Among the candidates who won in the South-east Asian nation's first election in 20 years on Nov. 7 [2010] are six well-known drug barons. They represented the Union Solidarity and Development Party, the junta's political front, which triumphed comfortably in the poll"<sup>47</sup>.

For the U.S. Department of State "[Birman] policy of folding ethnic armed groups into quasi [state]-controlled [border guard forces—BGFs] complicates anti-narcotics efforts as BGFs are often complicit, if not active protectors, of illicit drug production and trafficking. [...] [...] [Government] officials are likely aware of the cultivation, production, and trafficking of illegal narcotics in areas they control"<sup>48</sup>.

"Many inside Burma assume some senior government officials benefit financially from narcotics trafficking, but these assumptions have never been confirmed through arrests, convictions, or other public revelations. Credible reports from NGOs and media claim that mid-level military officers and government officials were engaged in drug-related corruption; however, no military officer above the rank of colonel has ever been charged with drug-related corruption"<sup>49</sup>.

"The Burmese government considers drug enforcement secondary to national stability and is willing to allow narcotics trafficking in border areas in exchange for cooperation from ethnic armed groups and militias"<sup>50</sup>.

"Political arrangements between traffickers and Burma's government allow organized crime groups to function with minimal risk of interdiction"<sup>51</sup>.

## Nicaragua

According to two 2006 U.S. diplomatic cables released by WikiLeaks, organized crime and state seemed to have followed a partnership pattern.

"In 1984 Daniel Ortega [at power from 1979 to 1985, Head of state from 1985 to 1990 and since 2007] negotiated a deal with Colombian drug kingpin Pablo Escobar whereby Escobar received refuge for several months in Nicaragua after he had ordered the killing of the Colombian Minister of Justice. At the same time, Escobar's drug trafficking operation received Ortega's approval to land and load airplanes in Nicaragua as they sought to ship cocaine to the United States. In return, Ortega and the FSLN [Sandinista National Liberation Front] received large cash payments from Escobar. [The] Interior Minister [...] and his subordinates went so far as to assist Escobar with the loading and unloading of drugs onto his airplanes in Nicaragua. The Drug Enforcement Agency (DEA) managed to place a hidden camera on one of Escobar's airplanes and obtained film of Escobar and Ministry of the Interior officials loading cocaine onto one of Escobar's planes at Managua's international airport. CBS news later broadcast the film"<sup>52</sup>.

"Daniel Ortega and the Sandinista have regularly received money to finance FSLN electoral campaigns from international

<sup>46</sup> Ibid., footnote 32.

<sup>47</sup> IPS, "Junta's Drug Exports to China test Economic Ties", December 31, 2010.

<sup>48</sup> Department of State, *International Narcotics Control Strategy Report*, Vol. I, March 2012, 144-147.

<sup>49</sup> Department of State, *International Narcotics Control Strategy Report*, Vol. I, March 2013, 114.

<sup>50</sup> Ibid., 112.

<sup>51</sup> Department of State, *International Narcotics Control Strategy Report*, Vol. II, March 2013, 77.

<sup>52</sup> Cable #63026, May 5, 2006. [http://www.elpais.com/articulo/internacional/Cable/delitos/abusos/regimen/Daniel/Ortega/elpepuint/20101206elpepuint\\_35/Tes](http://www.elpais.com/articulo/internacional/Cable/delitos/abusos/regimen/Daniel/Ortega/elpepuint/20101206elpepuint_35/Tes)

*drug traffickers, usually in return for ordering Sandinista judges to allow traffickers caught by the police and military to go free*"<sup>53</sup>.

As for the neighboring Panamá, his former leader and CIA informant, Manuel Noriega, ousted by the United States in 1989 was first condemned for drug trafficking and money laundering and sentenced to 30 years imprisonment in Florida, reduced to 17 for "good behavior". Extradited to France, he was condemned to a seven years jail sentence for money laundering. He was extradited to Panamá in December 2011.

### **North Korea**

Pyongyang has notably been accused by the U.S. government of counterfeiting its currency "*apparently done to generate foreign exchange that is used to purchase imports or finance government activities abroad*"<sup>54</sup>.

### **Russia**

In a 2010 widely reported U.S. diplomatic cable released by WikiLeaks, a senior Spanish prosecutor investigating organized crime "*gave a detailed, frank assessment of the activities and reach of organized crime (OC) in both Eurasia and Spain*". For [Belarus, Chechnya and Russia] he alleged, *one cannot differentiate between the activities of the government and OC groups*". For him, Russian organized crime "*exercises 'tremendous control' over certain strategic sectors of the global economy, such as aluminum*"<sup>55</sup>.

*"[He] said that according to information he has received from intelligence services, witnesses and phone taps, certain political parties in Russia operate 'hand in hand' with OC. For example, he argued that the Liberal Democratic Party (LDP) was created by the KGB and its successor, the SVR, and is home to many serious criminals. [He] further alleged that there are proven ties between the Russian political parties, organized crime and arms trafficking. Without elaborating, he cited the strange case of the 'Arctic Sea' ship in mid-2009 as 'a clear example' of arms trafficking*"<sup>56</sup>.

*"He summarized his views by asserting that the [Moscow]'s strategy is to use OC groups to do whatever [it] cannot acceptably do as a government. As an example, he cited [an individual arrested in Spain], whom he said worked for Russian military intelligence to sell weapons to the Kurds to destabilize Turkey. [The Spanish prosecutor] claimed that [Moscow] takes the relationship with OC leaders even further by granting them the privileges of politics, in order to grant them immunity from racketeering charges*"<sup>57</sup>.

*"[The Spanish prosecutor] said that he believes the FSB is 'absorbing' the Russian mafia but they can also 'eliminate' them in two ways: by killing OC leaders who do not do what the security services want them to do or by putting them behind bars to eliminate them as a competitor for influence. The crime lords can also be put in jail for their own protection*"<sup>58</sup>.

<sup>53</sup> Cable #63040, May 5, 2006. [http://www.elpais.com/articulo/internacional/Cable/jueces/sandinistas/ponen/libertad/narcos/cambio/dinero/elpepuesp/20101206elpepuint\\_37/Tes](http://www.elpais.com/articulo/internacional/Cable/jueces/sandinistas/ponen/libertad/narcos/cambio/dinero/elpepuesp/20101206elpepuint_37/Tes)

<sup>54</sup> CRS, *North Korean Counterfeiting of U.S. Currency*, June 12, 2009, 15 p. and 22 mars 2006, 18 p., *International Herald Tribune*, August 20, 2006 "North Korea linked to Asian Banks", *Foreign Policy*, September–October 2008, 61.

<sup>55</sup> Cable #000154, February 8, 2010 <http://www.guardian.co.uk/world/us-embassy-cables-documents/247712>.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

**Transnational Organized Crime: Examples of a Diverse and Global Threat**  
**Click on image to view larger version**

**Source:** U.S. Office of the Director of National Intelligence, *The threat to U.S. national security posed by transnational organised crime*, 2011

Beyond the international reaction triggered by the death of Sergueï Magnitsky, the case, 230 million dollars seemingly defrauded, allegedly with the complicity of several officials in relations with Russian organized crime, would seem, if confirmed, to embody what the Spanish prosecutor described.

## **The Illicit Economy: A Suppletive and Alternative Model of Development**

A fact often misunderstood when it is simply considered, organized crime and illicit markets, just as the Cold War in the twentieth century and colonization in the nineteenth, grew to become a new geopolitical framework of the twenty-first century. They influence the evolution of society both at global and local levels as surely as the decisions taken within the G20, the World Trade Organization (WTO), or the International Monetary Fund (IMF)<sup>59</sup>. They also fuel a double phenomenon of politicization of crime and criminalization of politics<sup>60</sup>.

That is why beyond traditional divides between North and South, developed, emerging, and least developed economies, a paradigm shift is probably at play whereby 'functional' states, and areas within them, are found able to limit the criminal influence below the limit of what can be deemed acceptable and the others, where organized crime and illicit trades represent both a suppletive and alternative model of development.

A consequence of the Social Pact, transition from Behemoth to Leviathan (Hobbes), the legitimacy of state derives from its ability to provide security, employment, and reasonable prospects in climbing the social ladder. When failing to do so, the vacuum is often filled, in various areas of the world, including of course within developed countries, by criminal actors. In the end the state loses its legitimacy. This is the demise of the Social Pact.

The illicit economy, held up as a suppletive and alternative model of development, corrodes the licit sphere through corruption and the laundering of proceeds of crime. Thus, organized crime and illicit markets embody a new "invisible hand"<sup>61</sup>. And that is precisely the point if one wants to truly grasp the dynamic between licit and illicit economy nowadays. It is impossible to understand the effect of counterfeiting without considering the importance of this industry for some regions and states. It is impossible to shed light on small arms and light weapons trafficking without considering the role played by its intermediaries, small players in a greater cause (reason of state). It is impossible to understand the complexity of irregular migration without considering that for some economies the money sent back home, in hard currencies, from the migrants "lucky" enough to land themselves an undeclared work in Europe or North America can represent an essential part of the national GDP, thus contributing to prevention of social unrest. It is impossible again to grasp the issue of grand corruption, tax evasion, and money

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<sup>59</sup> Mickaël R. Roudaut, *Marchés criminels—Un acteur global*, Op. cit.

<sup>60</sup> M. Naím, "The Drug Trade: The Politicization of Criminals and the Criminalization of Politicians", *Global Commission on Drug Policies*, January 2011, 8.

<sup>61</sup> Mickaël R. Roudaut, *Géopolitique de l'illicite—la nouvelle main invisible*, Op. cit. and *Marchés criminels—Un acteur global*. "In economics, the invisible hand of the market is a metaphor to describe the self-regulating behavior of the marketplace. The idea of markets automatically channeling self-interest toward socially desirable ends

**Click on image to view larger version**

**Source:** Mickaël R. Roudaut, "Géopolitique de l'illicite : une nouvelle grammaire", *Géographie des conflits* (Dir. Béatrice Giblin), La Documentation française, March 2012

laundering without recognizing the central role played by financial opacity in the global economy...<sup>62</sup>

Beyond, this illicit and criminal force challenges the very foundation of modern states, based on sovereignty, since, whatever the actors or techniques, organized crime and the illicit trades they operate are transnational. Not only borders became more difficult to control due to the explosion of commercial flows but crossing them represent a great profit incentive to criminals.

Two figures in this regard. "*The value of the drugs doubles with every border crossed: a gram of heroin worth \$3 in Kabul may reach \$100 on the streets of London, Milan or Moscow*"<sup>63</sup>. One kilo of sildenafil citrate, the active ingredient of Viagra, only costs 60 dollars in South Asia, diluted in thousands of tablets, this modest investment can be worth 300,000<sup>64</sup>.

Thus, as an illustration of the polycriminal nature of transnational organized crime, "*a line of cocaine snorted in Europe kills one square meter of Andean rain forest and buys one hundred rounds of AK 47 ammunition in West Africa*"<sup>65</sup>.

## Geopolitics and Geoeconomics of Illicit and Criminal Markets

### Geoeconomics of Drugs

The geoeconomics of drugs is well known. "*The overall value of the illicit drug market was estimated at about \$320 billion for the year 2003, equivalent to 0.9 per cent of global GDP*"<sup>66</sup>.

Of course, the heroin trade partly fuels both insurgency and terror. In total, the Taliban's income from the opiate trade in 2009 was around \$155 million (ranging from 140 to 170)<sup>67</sup>. Beyond, "UNODC estimates suggest that the value of Afghan traders' opiate-related sales was equivalent to slightly more than 60 per cent of the country's GDP in 2004. While this proportion decreased to 16 per cent in 2011, this figure is still very significant"<sup>68</sup>. In other words, the opium trade would be worth an equivalent of one sixth of the Afghan "wealth".

Moreover, beyond the opiate trade, "*the total corruption cost has increased by some 40 per cent over the last three years to reach \$3.9 billion*". "*Nearly 30 per cent of Afghan citizens paid a bribe when requesting a service from individuals not employed in the public sector of Afghanistan in 2012, as opposed to the 50 per cent who paid bribes to public officials*"<sup>69</sup>.

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*is a central justification for the laissez-faire economic philosophy. In this sense, the central disagreement between economic ideologies can be viewed as a disagreement about how powerful the 'invisible hand' is" (Wikipedia). Nowadays, organized crime, based on illicit trades economy, can play a social role thus embodies this invisible hand.*

<sup>62</sup> Mickaël R. Roudaut, *Marchés criminels—Un acteur global*, Op. cit.

<sup>63</sup> UNODC, *Addiction, Crime and Insurgency—The Transnational Threat of Afghan Opium*, Press release p. 2, October 21, 2009.

<sup>64</sup> *Foreign Policy*, "The Deadly World of Fake Drugs", September–October 2008, 61.

<sup>65</sup> Antonio Maria Costa, then UNODC Executive Director, UN Press Release, February 24, 2010.

<sup>66</sup> UNODC, *World Drug Report 2012*, 60.

<sup>67</sup> UNODC, *The Global Afghan Opium Trade—A Threat Assessment*, July 2011, p. 30.

<sup>68</sup> UNODC, *World Drug Report 2012*, p. 67.



The invasive power of the narco-economy expands well beyond Afghan territory to follow the heroin roads. "With a net profit of US\$1.4 billion only from heroin trade, drug traffickers earned almost 31 per cent of the GDP of Tajikistan (\$4.58 billion) and 33 per cent of the GDP of Kyrgyzstan"<sup>70</sup>. "[These countries] are in a sense dependent on the illicit opiates industry"<sup>71</sup>.

Important point, "[T]he value of the Afghan opiate trade in Europe (Russia excluded) is no less than 20 times the value of the opiate trade in Pakistan (US\$ 1 billion). The economic power accruing to criminal organizations running trafficking operations to Europe via the Balkan or the Northern routes dwarfs insurgents' benefits in Afghanistan and/or Pakistan. As a whole, Europe's stability is not threatened by the opiate trade, but the very large revenues they extract from the drug trade have given these groups the means to achieve considerable influence in some countries along trafficking routes"<sup>72</sup>.

In other words, since primarily enriching, thus empowering, European and Turkish criminal groups, heroin trafficking could perhaps be considered a European as much as an Afghan issue<sup>73</sup>.

A similar link between the illicit and criminal economy and its impact on the state, albeit to a lesser degree, is found concerning cannabis in Morocco. The role of the cannabis economy in the Rif Mountains is well known. Serving as a social net, it prevents social unrest, irregular migra-

tion to Europe, and Islamism, further highlighting its geopolitical influence<sup>74</sup>.

The U.S. Department of State reports, "UNODC estimates that the cannabis crop provides incomes for 800,000 people, and accounts for 3.1% of Morocco's agricultural GDP. Police corruption and tacit non-enforcement remains an issue in Morocco"<sup>75</sup>.

Of course, the impact of the cannabis economy expands along the trafficking routes in Europe. Rather than referring to global figures that the reader is familiar with, the findings of a 2007 report from the French drugs observatory, a public institution, deserve attention.

In France, the cannabis economy would represent 100,000 street dealers. On a monthly basis, a semi-wholesaler would earn up to 46,000 euro a month; the average salary of a manager of a company with over 2,000 employees. The first intermediate (supplier) would also benefit substantially from the cannabis economy with a monthly salary of up to 6,400 euro. The last two levels of resellers (street dealer) would only make a maximum of 800 euro per month (which could be considered as a "cannabis minimum wage" since the net minimum salary in France is roughly 1,000 euro a month)<sup>76</sup>.

The scale of the cannabis economy in France was further confirmed in a report from the organized crime intelligence and analysis department of French police. "[C]riminal organizations from sensitive

<sup>69</sup> UNODC, *Corruption in Afghanistan*, Press Release, February 7, 2013.

<sup>70</sup> UNODC, *The Global Afghan Opium Trade*, Op. cit., 47.

<sup>71</sup> UNODC, *World Drug Report 2010*, 48.

<sup>72</sup> UNODC, *Addiction, Crime and Insurgency—The Transnational Threat of Afghan Opium*, 2009, 18.

<sup>73</sup> Mickaël R. Roudaut, "Kaboul-Paris : voyage d'un gramme d'héroïne—Pouvoir et puissance de l'économie du pavot", Op. cit.

<sup>74</sup> Alain Labrousse, *Géopolitique des drogues*, PUF, Que-sais-je? Third Edition, 2011, 38.

<sup>75</sup> Department of State, *International Narcotics Control Strategy Report*, Vol. I, March 2013, 240.

<sup>76</sup> Christian Ben Lakhdar, *Le trafic de cannabis en France*, OFDT, November 2007, 25.

*suburbs, responsible for massive imports of Moroccan cannabis (worth over 1 billion euro for a consumption of 250 tons a year) and continuous illegal drugs flows remain the main source of the underground economy in France*<sup>77</sup>.

This represents both the suppletive and at times alternative model of development previously mentioned.

### ***Geoeconomics of Counterfeiting***

Counterfeiting, an industry probably claiming millions of jobs worldwide, serves as a social net within states and territories where they are well rooted. Tackling it would mean providing another future to these employees of the illicit trade. That is why its geoeconomics impact, from China to Turkey, Argentina or Morocco, is generally underrated.

While the costs are difficult to quantify, and do not include non-monetary damage such as illness and death, the value of counterfeiting is estimated by the OECD to be around \$250 billion a year<sup>78</sup>. This figure does not include domestically produced and consumed counterfeits nor digital piracy. If these were added, the total amount of counterfeiting worldwide could be several hundred billion dollars more<sup>79</sup>. In 2011, the value of the equivalent genuine products of

the 114 million IPR infringing articles detained at the EU external border was estimated to be over 1.2 billion euros<sup>80</sup>.

What is the socio-economic cost of counterfeiting in Europe? Despite many reports, they tend, like a school of fish, to copy one another. The most common estimates evaluate at 200,000 the number of jobs lost each year in the EU because of counterfeiting. In France, 30,000 jobs are supposedly at stake. These figures, persistently quoted, serve as a reference. Yet, apparently neither built on reliable statistical basis nor on any comparable data, they rather reveal the absence of a more rigorous assessment of the socioeconomic consequences of the counterfeiting industry<sup>81</sup>.

The same strategic gap has been emphasized in the United States by the Government Accountability Office (GAO—U.S. Congress). Faced with the identical issue of quantification and comparability of data, it concludes that the socioeconomic impact of counterfeiting on U.S. soil cannot be scientifically evaluated for lack of reliable data<sup>82</sup>.

Furthermore, the more diverse counterfeiting becomes, the more it concerns products of daily use. In a causal link, the more counterfeiting attempts to penetrate official channels of distribution, and the more we all are at potential risk of buying fakes in good faith. There lies the

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<sup>77</sup> "L'activisme et les capacités d'adaptation des organisations criminelles issues des cités sensibles, responsables des importations massives de cannabis marocain (plus d'un milliard d'euros pour environ 250 tonnes de résine de cannabis consommées annuellement selon la Police judiciaire) et le déploiement continu des flux de stupéfiants, demeurent la principale source d'irrigation de l'économie souterraine en France", *Le Figaro*, October 22, 2012.

<sup>78</sup> OECD, *Magnitude of Counterfeiting and Piracy of Tangible Products: An Update*, November 2009, 6.

<sup>79</sup> *Id.*

<sup>80</sup> European Commission, *Report on EU Customs Enforcement of Intellectual Property Rights—Results at the EU Border—2011*, July 2012, 7.

<sup>81</sup> Mickaël R. Roudaut, "From Sweatshops to Organized Crime: The New Face of Counterfeiting", in *Criminal Enforcement of Intellectual Property* (Edward Elgar Publishing, 2012), 75–95.

<sup>82</sup> United States Government Accountability Office, *Observations on Efforts to Quantify the Economic Effects of Counterfeit and Pirated Goods*, April 2010, 37.

main stake of our times. If there are many examples of penetration of official channels of distribution<sup>83</sup>, no study evaluating this reality has however been conducted so far, highlighting how unknown this illicit trade remains in spite of being on everyone's lips. The same gap concerns the extent of counterfeits produced and trafficked in Europe.

### **Geopolitics of Natural Resources**

The superposition of a map of civil conflicts with the cartography of natural resources in Africa presents similarities. Similarity is not causality, however in Sierra Leone, Liberia, and the Democratic Republic of Congo or more precisely in the Great Lakes region, or in Nigeria, the plundering of natural resources and its smuggling have played or play an important and well documented role in the financing, so in the prolongation, of these conflicts.

This is particularly the case in the Democratic Republic of Congo, where conflicts, whether declared or latent, oppose no less than six factions. Since all parties are partially if not essentially funded through natural resources, outbreaks concentrate around them. Ultimately, plundering of natural resources and civil wars feed one another.

On the long run, by contagion, it destabilizes entire regions which in turn pushes people to flee. Some, choosing exile in Europe, employ the services of criminal networks since irregular migration to the EU is considered essentially facilitated to one degree or another by organized crime.

Once in Europe, many of them, when asylum is not granted, can become

irregular workers on construction sites, sell counterfeit, others (mostly women) can be coerced into prostitution rings illustrating the symbiotic links between irregular migration, trafficking in persons, undeclared labor, and violations of intellectual property rights, all this also impacting on the legal economy<sup>84</sup>.

### **Geoeconomics of Irregular Migration**

The lack of political will sometimes deplored in Europe or North America from the emigration states in the fight against irregular migration networks exploiting their nationals could find its origin in the following.

Not only candidates to exile mainly consist of "left behind" within disfranchised communities who, in lack of emigration prospects, could fuel social unrest (food riots...) but turning a blind eye on these criminal rings allows emigration countries to benefit from a means of economic development through remittances provided to family members remaining behind. Some of these countries heavily depend on this hard currency flow sometimes representing up to 45% of their GDP<sup>85</sup>. Ultimately, they are simply subsidized by their migrants illustrating how irregular migration can be necessary to their viability.

This trend could be reinforced with the expected increase of the global population, to, medium hypothesis, 11 billion persons in 2100. The number of people living on the African continent is set to nearly quadruple by the end of the century. Nigeria, a country slightly smaller than Texas and Colorado combined, could surpass

<sup>83</sup> Mickaël R. Roudaut, *From Sweatshops to Organized Crime: The New Face of Counterfeiting*, Op. cit.

<sup>84</sup> Mickaël R. Roudaut, *Marchés criminels—Un acteur global*, Op. cit. and *Géopolitique de l'illicite—la nouvelle main invisible*, Op. cit.

<sup>85</sup> UNODC (from World Bank data), *The Globalization of Crime: A Transnational Organized Crime Threat Assessment*, 2010, figure 41, 56.

the United States as the world's third-most populous country by 2050. The size of its population may rival that of China by the end of the century<sup>86</sup>.

## Financial Opacity: The Bridge Between Licit and Illicit Economies

Illicit trades are big business. The UNODC suggests that all criminal proceeds, excluding tax evasion, would have amounted to some 2.1 trillion dollars in 2009. Out of this total, the proceeds of transnational organized crime would be considered being 1.5 % of the global GDP, 70% of which would likely have been laundered through the financial system<sup>87</sup>.

In our times, a "successful" state does not only require the harmonious superposition of a Nation over a territory. It must also be economically sustainable; hence the temptation of some territories and states to trade their sovereignty in order to attract the necessary capital ensuring their development. Tax evasion, money laundering, and grand corruption benefit from the financial opacity then organized which in turn distorts the global economy<sup>88</sup>.

What to conclude from the last two years events? According to the audit from FINMA, the Swiss Financial Market Supervisory Authority, conducted as part of the identification of the assets held by the three Arab leaders ousted, 4 of the 20 Swiss banks examined were not following, sometimes crudely, prudential rules in their relationships with 'politically exposed persons' (head of State, ambassadors, heads of public enterprises, members of their entourage, etc).

A similar audit conducted by the FSA, the UK Financial Services Authority stated, "*Serious weaknesses identified in banks' systems and controls, as well as indications that some banks are willing to enter into very high-risk business relationships without adequate controls when there are potentially large profits to be made, means that it is likely that some banks are handling the proceeds of corruption or other financial crime*"<sup>89</sup>.

Ultimately, the Wachovia, Sal-LCB banks, Standard Chartered, Crédit Suisse, or HSBC cases are only the consequences of a bigger picture, Licit and illicit finances, far from excluding one another, responding to the law of supply and demand, tend to attract each other.

This is where the opacity organized by some states and territories creates a bridge between legal and illicit economies. This bridge, this service, is used for tax evasion, grand corruption, and money laundering alike.

Of course, this leads to further increasing the tax burden on fair tax payers contributing for the others. In emerging countries, this fuels the gap between rich and poor. This also has an impact on the euro zone crisis.

In its 2011 report, Transparency International saw in the economic difficulties of the euro zone the "*inability of the government to fight against corruption and tax evasion. In Germany and France, official estimates of losses due tax fraud are around 30 billion euro a year, which represent a third of their respective annual deficit. In comparison, in countries where tax evasion is seen as*

<sup>86</sup> *Los Angeles Times*, "Global Population Growing Faster than Expected, U.N. says", July 10, 2013.

<sup>87</sup> UNODC, *Estimating Illicit Financial Flows resulting from Drug Trafficking and other Transnational Organized Crime*, Press Release, October 25, 2011.

<sup>88</sup> Mickaël R. Roudaut, *Géopolitique de la crise, des monnaies et de la fraude*, Op. cit.

<sup>89</sup> FSA, *Banks' Management of High Money-laundering Risk Situations*, June 2011, 94 p. spéc. p. 6.

### Illicit Markets: A Big Business (in U.S. dollars)

Market	Estimated Value of Illicit International Trade
Drugs	\$320 billion
Humans	\$31.6 billion
Wildlife	\$7.8 to \$10 billion
<b>Counterfeiting Total</b>	<b>\$250 billion</b>
Counterfeit Pharmaceuticals	\$35 to \$40 billion
Counterfeit Electronics	\$50 billion
Counterfeit Cigarettes	\$2.6 billion
Human Organs	\$614 million to \$1.2 billion
Small Arms & Light Weapons	\$300 million to \$1 billion
Diamonds & Colored Gemstones	\$960 million
Oil	\$10.8 billion
Timber	\$7 billion
Fish	\$4.2 to \$9.5 billion
Art and Cultural Property	\$3.4 to \$6.3 billion
Gold	\$2.3 billion
<b>Total</b>	<b>\$639 to \$651 billion</b>
<b>Approximation</b>	<b>\$650 billion</b>

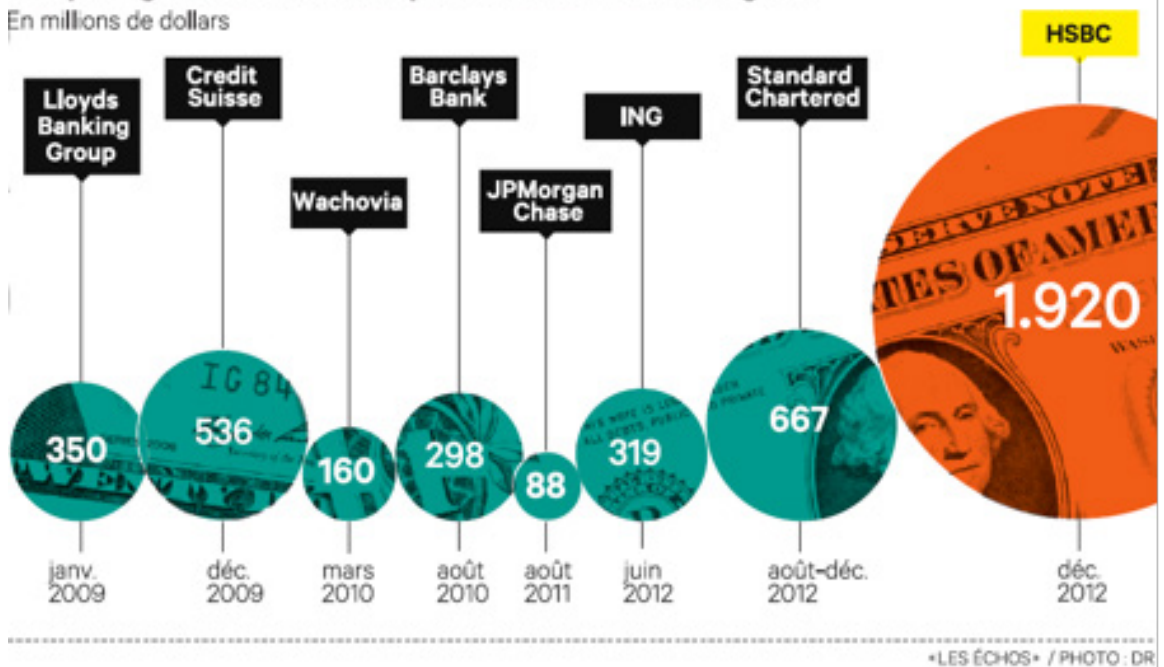
**Source:** Global Financial Integrity, *Transnational Crime in the Developing World*, February 2011, 56.

The counterfeiting estimate excludes counterfeits produced and sold locally (i.e., within the same country) as well as illegal downloading

## "The Biggest Money Laundering Fines in Millions of Dollars"

### Les plus grosses amendes pour blanchiment d'argent

En millions de dollars



Source: *Les Echos*, 12 Dec. 2012

*endemic and the most hit by the euro financial crisis, the amount of revenue loss is of the same magnitude as the amount of the annual deficit*<sup>90</sup>.

If fraud and tax evasion are of course not the "only explanation" to the crisis in the euro zone, they are a cause of its lasting effect. That is why one of the keys to the fight against money laundering, tax evasion, and grand corruption lies in the transparency of legal entities so as to prevent them from being a vehicle to fraud<sup>91</sup>.

Positive evolution, the current financial crisis, helped in creating momentum, notably within the G20 and in Europe, on the impacts of financial opacity.

Beyond, money laundering is found to have played a role in the Mexican (1994–1995) and Thai (1997) financial crises, further highlighting the global stability concern raised by the illicit economy<sup>92</sup>.

## Conclusion

While the international community concerns tend to remain focused around terrorism and weapons of mass destruction, the illicit economy became both a suppletive and an alternative model of development attracting a new type of criminals, state. Yet, by lack of awareness, the links between crime, illicit trades, economy, and states remain poorly studied and rarely debated<sup>93</sup>.

Even though a global and national security concern, transnational organized crime and illicit trades remain too often

confined to a law enforcement issue. Clearly, there is a need to fundamentally rethink the way organized crime is defined and understood.

As for the recent political will displayed against financial opacity, it has yet to pass the test of time.

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<sup>90</sup> *Le Monde*, December 1, 2011.

<sup>91</sup> Michael Findley, Daniel Nielson, and Jason Sharman, *Global Shell Games: Testing Money Launderers' and Terrorist Financiers' Access to Shell Companies* (World Bank, 2012), 33, *The puppet Masters*, October 2011, 284.

<sup>92</sup> Guilhem Favre, "Prospering on Crime: Money Laundering and Financial Crisis", *Centre for East and South-East Asian Studies*, 2005.

<sup>93</sup> A welcome initiative, the OECD launched in 2012 new activities aiming to quantify the impacts of illicit trade and the illegal economy on economic growth, sustainable development and global security.